

REMARKS

In the Office Action mailed December 20, 2002, the Examiner objected to informalities in the drawings; objected to the Abstract; and rejected claims 1-10 under 35 U.S.C. §103(a) as being unpatentable over Tiedemann Jr. et al. (U.S. Patent No. 5,859,840) (hereinbelow Tiedemann) in view of Dupont et al. (U.S. Patent No. 5,974,106) (hereinbelow Dupont).

Concerning the drawings, Applicant will correct the deficiencies when the above-captioned application is allowed, if not sooner.

Concerning the Abstract, Applicant provides a replacement Abstract that corrects the typographic error noted by the Examiner.

By this amendment, Applicant amends claims 1-6 to more clearly define the present invention; cancels claims 7-10; and adds new claims 11-27 to claim subject matter to which the inventor is entitled. Claims 1-6 and 11-22 are currently pending.

The Examiner rejected claims 1-10 under 35 U.S.C. §103(a) as being unpatentable over Tiedemann in view of Dupont. Applicant traverses this rejection.

Claim 1 recites a communication apparatus for communicating over a plurality of channels. Moreover, claim 1 includes a combination of elements including, for example, notifying unit configured to notify a connected another communication apparatus of a number of usable channels based on a negotiation between the communication apparatus and a relay station being connected to the communication apparatus.

Furthermore, claim 1 includes a detecting unit configured to detect a number of usable channels based on a negotiation between the connected another communication

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apparatus and a relay station being connected to the connected another communication apparatus. In addition, claim 1 includes a "selecting unit configured to select a communication rate based on the notified number of usable channels and the detected number of usable channels." (emphasis added)

In contrast to claim 1, Tiedemann discloses a completely different type of system that simply uses additional channels when high rate transmission is desired. In particular, Tiedemann discloses the following:

However, when the user's transmission exceeds the capacity of the primary channel, the user is provided use of an additional channel or set of channels for use in conjunction with the primary channel to enable the transmission of high rate data.

(Tiedemann, col. 1, lines 14-18.) Although Tiedemann uses additional channels to accommodate higher rates, it is completely silent with respect to a selecting unit that selects a rate based on a notified number of channels from the notifying unit and on a detected number of channels from the detecting unit. Instead, Tiedemann uses pre-assigned channels that are just available for higher data rates. Because the channels are just available, Tiedemann simply increases the data rate without considering the channel status of the calling and called terminals. Accordingly, Tiedemann fails to teach or suggest at least one of the elements of amended claim 1 including, for example, "selecting unit configured to select a communication rate based on the notified number of usable channels and the detected number of usable channels."

Although Dupont teaches multirate communications based on received signal strength (Dupont, Abstract), Dupont fails to cure the deficiencies of Tiedemann because Dupont fails to teach or suggest ^{at} least one of the elements of amended claim 1 including, for example, "selecting unit configured to select a communication rate based"

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Don't Agree

on the notified number of usable channels and the detected number of usable channels." Accordingly, neither Tiedemann nor Dupont suggests or discloses at least this element of the combination recited in claim 1. Indeed, the Examiner does not argue that these cited reference teach a combination including at least the "selecting unit," recited in claim 1. Claim 1 is thus allowable over Tiedemann and Dupont, whether taken alone or in any reasonable combination. Therefore, the rejection of claim 1 under 35 U.S.C. § 103(a) should be withdrawn.

Claims 2-5 and new claims 19-22 depend directly from claim 1. Claim 6 recites a method capable of being performed by the communication apparatus of claim 1. Claims 11-18 depend directly from claim 6. New independent claim 23 includes recitations similar to those of claim 1. Claims 24-27 depend from claim 23. For at least the reasons given with respect to claim 1, claims 2-6 and 11-27 are allowable Tiedemann and Dupont, whether taken alone or in any reasonable combination. Therefore, the rejection of claims 2-14 under 35 U.S.C. § 103(a) should be withdrawn

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Respectfully submitted,

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APPENDIX TO SHOW CHANGES

1. (Amended) A communication apparatus for communicating over a plurality of channels, [at a time and changing a communication rate on the base of a number of the channels,] the apparatus comprising:

notifying [means for notifying] unit configured to notify a connected another communication apparatus of a number of usable channels [usable at the apparatus] based on a negotiation between the communication apparatus and a relay station being connected to the communication apparatus;

detecting [means for detecting through communication with] unit configured to detect a number of usable channels based on a negotiation between the connected another communication apparatus [a number of channels useable at the connected communication apparatus;] and a relay station being connected to the connected another communication apparatus; and

selecting [means for selecting] unit configured to select a communication rate [on the basis of the notified] based on the notifying number of usable channels and the detected number of usable channels.

2. (Amended) The communication apparatus according to claim 1, wherein [said] the selecting [means select] unit selects the communication rate based on [upon changing of] the [notified] notifying number [of channels].

3. (Amended) The communication apparatus according to claim 1, wherein [said] the selecting [means select] unit selects the communication rate based on [upon changing of] the detected number [of channels].

4. (Amended) The communication apparatus according to [the] claim 1, wherein [said] the notifying [means set] unit sets the notifying number of usable channels in control information [which is] being transmitted to the connected another communication apparatus.

5. (Amended) The communication apparatus according to [the] claim 1, wherein [said] the detecting [means detect] unit detects the number of the channels in control information [which is] being received from the connected another communication apparatus.

6. (Amended) A method [for selecting a communication rate of] in a communication apparatus for communicating over a plurality of channels, [at a time and changing a communication rate on the base of a number of the channels,] the method comprising:

notifying a connected another communication apparatus of a number of [channels] usable [at] channels based on a negotiation between the communication apparatus and a relay station being connected to the communication apparatus;

detecting [through communication with the connected communication apparatus] a number of [channels] useable channels based on a negotiation between [at] the connected another communication apparatus[;] and a relay station being connected to the connected another communication apparatus; and

selecting a communication rate [on the basis of the notified] based on the notifying number of usable channels and the detected number of usable channels.

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